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OFFICE OF PETITIONS

In re Application of
Kenneth J. Hines

Application No. 09/885,448

Filed: June 19, 2001

Attorney Docket No. 10488/11:1

DECISION ON PETITION

This is a decision on "Petition under 37 CFR §1.182," filed February 19, 2002 (certificate of mailing January 30, 2002), requesting that the above-identified application be accorded a filing date of June 19, 2001, with Figures 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B and 66A-B as a part of the original application disclosure.

Application papers in the above-identified application were filed on June 19, 2001. However, on November 30, 2001, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Figures 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B and 66A-B described in the specification appeared to have been omitted.

In reply, applicant timely filed the instant petition, asserting that the drawing figures, though incorrectly labeled, were present in the application as filed. As filed, Figures 56, 59, 63, 64, 65 and 66 each contained distinct units that were not individually referenced with an Arabic numeral and a capital letter, but rather collectively referenced with a single figure designation. In support thereof, applicant submitted *inter alia* a copy of their return postcard for the application as filed June 19, 2001; a copy of seven sheets of corrected drawings; and a copy of a return receipt postcard for substitute drawings filed October 15, 2001.

It is obvious from the petition that no drawing was actually missing on June 19, 2001. Rather, the drawings of Figures 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B and 66A-B were simply mislabeled as a result of applicant's filing error. However, the "Notice of Omitted Item(s)" mailed November 30, 2001, was correct in stating that Figures 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B and 66A-B described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition is **DISMISSED**.

The petition fee is required, since the petition was not necessary to correct any PTO error.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of June 19, 2001, using the drawings received on that date and the 7 sheets of corrected drawings filed on February 19, 2002 to correct the error in labeling of figures 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B and 66A-B.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.


Beverly M. Flanagan
Supervisory Petitions Examiner
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for Patent Examination Policy